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C O N F I D E N T I A L SECTION 01 OF 04 BUJUMBURA 002676

FOR U/S WIRTH FROM A/S SHATTUCK

ALSO FOR D, P, L, PRM, AND AF

DOD FOR A/S FREEMAN

E.O. 12356: DECL:OADR

TAGS: PHUM, PREL, PGOV, EAID, RW, BY

SUBJECT: INTERNATIONAL TRIBUNAL ON RWANDA: FURTHER
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THOUGHTS

1. CONFIDENTIAL - ENTIRE TEXT.

2. SUMMARY: A RETURN TRIP TO KIGALI AUGUST 8 HAS
ENCOURAGED ME GREATLY REGARDING THE INTENTIONS AND
OBJECTIVES OF THE NEW GOR GOVERNMENT. IT HAS
STRENGTHENED MY SENSE THAT WE MUST MOVE AHEAD NOW
SWIFTLY TO DO WHATEVER IS NECESSARY TO COMPLETE THE WORK
OF THE COMMISSION OF EXPERTS AND SET UP AN INTERNATIONAL
TRIBUNAL. WE MUST ALSO ORCHESTRATE USG AND

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INTERNATIONAL SUPPORT FOR THE NEW GOVERNMENT'S PROFESSED DEDICATION TO BREAKING RWANDA'S INTERNAL CYCLE OF VIOLENCE AND EXTERMINATION. IMMEDIATE INITIATIVES FOR THE USG INCLUDE TAKING THE LEAD ON CREATING AND FUNDING A LARGE AND WELL-SUPPORTED FORCE OF HUMAN RIGHTS MONITORS TO BE FIELDED WITHIN THE NEXT FEW WEEKS AND A USG INVESTIGATIVE TEAM TO GATHER EVIDENCE ON THE GROUND SOON TO FACILITATE THE INVESTIGATIVE PROCESS. END SUMMARY.

3. ON MY RETURN TO KIGALI AUGUST 8, WHICH HAD PERMITTED TWO DAYS OF REFLECTION BY GOR/RPF, I MET AGAIN WITH RPF LEADER/VICE PRESIDENT/DEFENSE MINISTER PAUL KAGAME AND RWANDA'S NEW JUSTICE MINISTER. THIS TIME I ALSO MET WITH PRIME MINISTER TWAGIRAMUNGU. BOTH THE SUBSTANCE AND THE TONE OF THE MEETINGS WERE EXTREMELY POSITIVE. ON MONDAY, THE GOVERNMENT WAS CONSIDERABLY STRONGER THAN ON SATURDAY; IT INDICATED THAT RWANDA ENTHUSIASTICALLY ACCEPTS THE PROPOSAL THAT AN INTERNATIONAL TRIBUNAL JUDGE THOSE RESPONSIBLE FOR GENOCIDE; HOWEVER, IN ORDER

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TO STAVE OFF NATIONAL PROSECUTIONS IN THE NEAR TERM, AS WELL AS ADDITIONAL VIOLENCE, THIS TRIBUNAL MUST COME INTO OPERATION AND BEGIN ITS PROCEEDINGS SOON. THE DEFENSE AND JUSTICE MINISTERS STILL SEE A ROLE FOR NATIONAL PROSECUTIONS AND WANT DECISIONS MADE AS TO WHICH CASES AN INTERNATIONAL TRIBUNAL WOULD BRING AND WHICH CASES WOULD BE ADJUDICATED WITHIN THE RWANDAN JUDICIAL SYSTEM. THIS CLEARLY REQUIRES FURTHER DISCUSSION. THE JUSTICE MINISTER ALSO INDICATED THAT THE DEATH PENALTY IS THE MAXIMUM PENALTY FOR GENOCIDE AND SAID THAT SIGNIFICANT PROBLEMS WOULD BE CAUSED IF SOME PERSONS RECEIVED LIFE IMPRISONMENT BY AN INTERNATIONAL TRIBUNAL AND PERSONS WHO COMMITTED LESS SERIOUS OFFENSES RECEIVED THE DEATH PENALTY IN RWANDA. THE GOR AGREED TO DEFER TO AN INTERNATIONAL TRIBUNAL IN THE NEAR TERM.
THE GOVERNMENT ALSO EMPHASIZED THAT ANY VIOLENCE CURRENTLY OCCURRING IN RWANDA IS DUE TO INDIVIDUAL AND ISOLATED ACTS OF RETRIBUTION WHICH ARE CONDEMNED BY THE GOR; THE GOR WILL SEEK TO PREVENT SUCH ACTS AND PUNISH THOSE RESPONSIBLE; THE GOR SEEKS THE IMMEDIATE RETURN OF THE REFUGEES MASSED ON THE FAR SIDES OF RWANDA'S BORDERS; AND, IT WISHES TO FACILITATE THEIR RETURN IN ANY WAY IT CAN, BUT WILL REQUIRE ASSISTANCE FROM THE

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INTERNATIONAL COMMUNITY.

4. THIS MESSAGE WAS CONVEYED BY THE PRIME MINISTER IN MOVING AND VISIONARY TERMS. HE SPOKE OF THE NEED TO FILL THE TRAGIC VOID LEFT BY THE RECENT DISASTER -- WITH A NEW POLITICAL CULTURE AND A SYSTEM FOUNDED ON THE RULE OF LAW AND DEMOCRATIC PROCESSES. EVERYTHING HE WOULD DO

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IN THE DAYS AHEAD, HE VOWED, WOULD BE BASED ON THE CONVICTION THAT RWANDAN SOCIETY MUST NOT BE ALLOWED TO REVERT TO THE TRADITIONAL GOVERNING PRINCIPLE OF "KILL QUIETLY AND HIDE." IF THE NEW GOVERNMENT BECAME IMPLICATED IN SUCH A POLICY IT WOULD SOW THE SEEDS OF ITS OWN DESTRUCTION; IT HAD A VITAL VESTED INTEREST IN NATIONAL RECONCILIATION. THE PRIME MINISTER ASSERTED THAT, IN ANY CASE, HE WOULD RESIGN IF THE GOR RESORTED TO OR TOLERATED EXTRAJUDICIAL VIOLENCE. HOWEVER, AS GOR OFFICIALS HAD ALREADY EXPLAINED TO US, THE PRINCIPLE OF ACCOUNTABILITY MUST BEGIN TO BE IMPLEMENTED IMMEDIATELY OR THE PRESSURES WOULD BUILD AND RWANDANS WOULD RESUME PRIVATE BLOOD-LETTING. THE GOR IS CONVINCED, WE ARE TOLD, THAT AN INTERNATIONAL TRIBUNAL IS AN ESSENTIAL ELEMENT IN ACHIEVING ACCOUNTABILITY, JUSTICE AND NATIONAL RECONCILIATION. HOWEVER, IF AN INTERNATIONAL TRIBUNAL BECOMES AN EXERCISE IN DELAYED ACCOUNTABILITY,

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THOUGHTS

A LA BOSNIA, IT WILL ONLY CONTRIBUTE TO THE EXPLOSIVE
FORCES STILL THREATENING RWANDAN SOCIETY.

5. MOVING FROM WORDS TO ACTION, THE GOR OFFICIALS
INFORMED ME THAT THEY HAD IMMEDIATELY DISPATCHED TO THE
SECRETARY-GENERAL THE DRAFT LETTER I HAD PRESENTED THEM
DURING MY FIRST ROUND OF MEETINGS (FULL TEXT IS AT PARA
10.) FURTHERMORE, THE PRIME MINISTER HAD JUST ISSUED A
COMMUNIQUE IN A PRESS CONFERENCE WHICH SET THE RECORD
STRAIGHT REGARDING THREE POINTS:

-- RWANDA WOULD OBSERVE DUE PROCESS AND ABIDE BY THE
SPIRIT AND LETTER OF THE UNIVERSAL DECLARATION OF HUMAN
RIGHTS;
-- THE GOR SUPPORTS THE CREATION OF AN INTERNATIONAL WAR

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CRIMES TRIBUNAL;

-- THE GOR WISHED TO CLARIFY A REPLY GIVEN BY THE PRIME MINISTER TO A QUESTION BY A NEW YORK TIMES REPORTER WHICH HAD GIVEN THE IMPRESSION THAT HE WISHED TO SEE 32,000 PEOPLE TRIED FOR WAR CRIMES. IN FACT, THE PRIME MINISTER HAD ONLY BEEN SPECULATING ON THE SIZE OF THE ADMINISTRATIVE STRUCTURE THAT WOULD HAVE BEEN INVOLVED IN MASS MURDER ON THE SCALE THAT HAD OCCURRED (INCLUDING GOVERNMENT, MILITARY AND MILITIA PERSONNEL).

6. ALL OF OUR INTERLOCUTORS ASKED FOR ASSISTANCE FROM THE USG AND THE INTERNATIONAL COMMUNITY IN MEETING THE DAUNTING TASKS OF RECONSTRUCTION, AND SPECIFICALLY THE NATIONAL ACCOUNTABILITY EFFORT AND THE RETURN OF THE REFUGEES. SPECIFICALLY, THE GOR WOULD WELCOME A FORCE

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OF HUMAN RIGHTS MONITORS THAT COULD ASSIST IN RESTORING SOME MINIMAL CONFIDENCE AGAINST FEAR OF EITHER GOVERNMENT-SPONSORED OR RANDOM VIOLENCE. THE RWANDAN AUTHORITIES WOULD ALSO WELCOME AND COOPERATE WITH A U.S. INVESTIGATIVE TEAM. (THE PRIME MINISTER REFERRED TO BOXES OF INCRIMINATING DOCUMENTS FOUND IN THE RESIDENCE OF THE FORMER PRESIDENT THAT HE WOULD WISH INVESTIGATORS TO EXAMINE.) THEY ALSO CALLED FOR AN EARLY VISIT BY THE COMMISSION OF EXPERTS AS TANGIBLE EVIDENCE THAT PREPARATIONS FOR THE INTERNATIONAL TRIBUNAL ARE INDEED UNDERWAY.

7. I WILL SUBMIT A COMPLETE LIST OF RECOMMENDATIONS ON MY RETURN. HOWEVER, I AM NOW THOROUGHLY CONVINCED THAT THE ONLY WAY TO PREVENT FURTHER DEATH AND DESTRUCTION IN RWANDA AND DESTABILIZATION IN THE REGION (THESE THOUGHTS ARE COMING TO YOU FROM BURUNDI) IS VIA AN INTERNATIONAL WAR CRIMES TRIBUNAL.

8. THE FOCUS OF ACTION MUST BE ON THREE AREAS. FIRST, AN INTERNATIONAL TRIBUNAL MUST BE SET UP WITHIN A VERY SHORT TIME IF IT IS TO SERVE BOTH JUSTICE AND THIS HUMANITARIAN NEED. I AM CONTINUING ON FROM BUJUMBURA TO PARIS TO PRESS THIS ISSUE WITH THE FRENCH AND BRITISH. I BELIEVE WE WILL HAVE TO DO THE SAME WITH OTHER SECURITY COUNCIL MEMBERS, AND WITH THE UN, EMPLOYING FORCEFUL MEANS AND HIGH-LEVEL ADVOCATES, IF NEED BE. SECOND, WE NEED TO WORK WITH THE UN AND OTHER GOVERNMENTS TO ASSURE THAT A WELL-SUPPORTED AND LARGE

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GROUP OF HUMAN RIGHTS MONITORS IS ON THE GROUND WITHIN
THE NEXT FEW WEEKS. ONLY A PERVERSIVE INTERNATIONAL
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PRESENCE (ALSO INCLUDING REPRESENTATIVES OF
INTERNATIONAL HUMANITARIAN ORGANIZATIONS/NGOS/PVOS) CAN
ENSURE THAT THE WORST IS INDEED OVER FOR RWANDA.
FINALLY, THE USG SHOULD BE PREPARED TO PROMPTLY SEND AN
INVESTIGATIVE TEAM TO WORK WITH THE RWANDANS ON EVIDENCE
GATHERING AND IN ASSISTING IN PREPARATIONS FOR THE
MASSIVE ACCOUNTABILITY EXERCISE IT IS PREPARED TO
UNDERTAKE IN COMPLIANCE WITH INTERNATIONAL STANDARDS OF
JUSTICE.

9. FINALLY, I WANT YOU TO KNOW THAT I AM SENDING YOU
THIS REPORT FOLLOWING AN OVERLAND TRIP FROM KIG
ALI TO
BUJUMBURA WHICH TOOK ME THROUGH HALF OF BURUNDI. IT WAS
AN EERIE JOURNEY. KIGALI ITSELF, BUT EVEN MORE SO THE
COUNTRYSIDE (FORMERLY THE MOST DENSELY POPULATED IN
SUB-SAHARAN AFRICA) WAS NEARLY DEVOID OF HUMAN LIFE.
ONLY OCCASIONAL SOULS, SOMETIMES ACCOMPANIED BY A CHILD,
ARGUED AGAINST THE IMPRESSION OF A COUNTRY DEPOPULATED

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BY THE MACHETE EQUIVALENT OF A NEUTRON BOMB. I CANNOT BEGIN TO COME IN TOUCH WITH THE CONSCIOUSNESS OF THOSE FEW I GLIMPSED ALONG THE ROADS -- OR THOSE I SAW MISERABLY STREWN ACROSS THE VOLCANIC ROCKS OF GOMA. HOWEVER, THESE POWERFUL AND DEEPLY DISTURBING IMAGES HAVE GIVEN A NEW MEANING TO THE ALREADY FRAUGHT EXPRESSION "NEVER AGAIN." WHILE IT IS TOO LATE FOR FAR TOO MANY IN RWANDA, AN INTERNATIONAL TRIBUNAL AND THE INSTITUTIONALIZATION OF ACCOUNTABILITY IN THE INTERNATIONAL SYSTEM CAN, I AM CONVINCED, SAVE LIVES YET BEING LIVED -- IN RWANDA AND ELSEWHERE.

10. TEXT OF LETTER SENT BY RWANDAN JUSTICE MINISTER TO SECRETARY GENERAL BOUTROS BOUTROS-GHALI.

8 AUGUST 1994

DEAR SECRETARY-GENERAL:

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WE ARE PLEASED THAT THE COMMISSION OF EXPERTS HAS BEEN SELECTED AND ENCOURAGE AN EARLY VISIT BY THE COMMISSION TO THE REGION TO BEGIN WORK.

BECAUSE OF THE URGENCY OF OBTAINING ACCOUNTABILITY AND REMOVING PERPETRATORS OF GENOCIDE AND OTHER GRAVE VIOLATIONS OF INTERNATIONAL HUMANITARIAN LAW FROM THE REGION, IT IS IMPERATIVE THAT THE COMMISSION CONCLUDE ITS WORK EXPEDITIOUSLY, WELL BEFORE THE FOUR MONTH DEADLINE.

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WE STRONGLY SUPPORT THE ESTABLISHMENT OF AN INTERNATIONAL TRIBUNAL ALONG THE LINES DEVELOPED FOR THE FORMER YUGOSLAVIA. TRIAL OF PERPETRATORS BY AN EXTERNAL, IMPARTIAL BODY IN THE NEAR TERM WOULD HELP PROMOTE PEACE AND RECONCILIATION AMONG THE PARTIES AND REMOVE DESTABILIZING ELEMENTS FROM RWANDA AND NEIGHBORING STATES.

AT THE SAME TIME, IN LIGHT OF DOMESTIC CONSIDERATIONS OF THE RWANDAN GOVERNMENT AND THE DUE PROCESS CONCERNS ASSOCIATED WITH DETAINING SUSPECTS FOR AN UNREASONABLE TIME PERIOD BEFORE TRIAL, IT IS ESSENTIAL THAT THE COMMISSION'S WORK BE COMPLETED PROMPTLY, AND THE ESTABLISHMENT OF AN INTERNATIONAL TRIBUNAL OCCUR IN THE NEAR TERM.

ALTHOUGH WE ARE PREPARED TO DEFER TO PROSECUTIONS BY AN INTERNATIONAL BODY, WE MUST SEE CLEAR AND DECISIVE STEPS TAKEN BY THE INTERNATIONAL COMMUNITY TOWARD THE PROMPT FORMATION OF A TRIBUNAL.

TAKING ACCOUNT OF THE SPECIAL RAPPORTEUR'S REPORT, WE URGE THE SECURITY COUNCIL TO ENSURE THAT THE COMMISSION OF EXPERTS ISSUES A REPORT IN THE IMMEDIATE FUTURE, AND TO TAKE CONCRETE STEPS TO LAY THE GROUNDWORK FOR PROMPT ESTABLISHMENT OF A TRIBUNAL, SUCH AS DEVELOPING PLANS FOR THE STRUCTURE, BUDGET AND STAFFING FOR THE TRIBUNAL, INCLUDING IDENTIFICATION OF A PROSECUTOR AND ANY ADDITIONAL JUDGES, REGISTRY STAFF AND FACILITIES THAT MAY BE NEEDED.

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WE ARE COMMITTED TO DOING OUR PART TO WORK TOWARD THE ESTABLISHMENT OF THIS IMPORTANT BODY. WE ALSO INTEND TO MAKE EVERY EFFORT TO PREVENT SUMMARY EXECUTIONS AND OTHER ACTS OF VIGILANTE JUSTICE AND TO ARREST THOSE WHO COMMIT ACTS OF REVENGE. WE HOPE THIS WILL FURTHER ENCOURAGE REFUGEES TO RETURN EXPEDITIOUSLY TO RWANDA FROM NEIGHBORING STATES.

WE HAVE ARRESTED A NUMBER OF PERSONS AGAINST WHOM WE HAVE CREDIBLE EVIDENCE THAT THEY COMMITTED GENOCIDE AND OTHER GRAVE VIOLATIONS OF INTERNATIONAL HUMANITARIAN LAW. WE ARE PREPARED TO HOLD THEM, CONSISTENT WITH INTERNATIONAL STANDARDS FOR DETENTION, PENDING PROSECUTION BY AN INTERNATIONAL TRIBUNAL.

WE CALL UPON OTHER STATES TO MAKE SIMILAR ARRESTS, CONSISTENT WITH THEIR DOMESTIC LAWS AND THE OBJECTIVES OF THE GENOCIDE CONVENTION, SO THAT THOSE WHO COMMITTED GRAVE VIOLATIONS OF INTERNATIONAL HUMANITARIAN LAW DO

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NOT ESCAPE THE REACHES OF THE JUDICIAL SYSTEM OR INCITE
FURTHER VIOLENCE.

WE RECOGNIZE THE IMPORTANCE OF A FAIR AND INDEPENDENT
JUDICIAL SYSTEM TO STABILITY AND DEMOCRATIC REFORM AND
INTEND TO DEVELOP SUCH A SYSTEM EXPEDITIOUSLY. WE
WELCOME INTERNATIONAL SUPPORT IN THIS ENDEAVOR.

IN SUM, WE
URGE THE INTERNATIONAL COMMUNITY TO MOVE
QUICKLY TO ESTABLISH AN INTERNATIONAL TRIBUNAL. PEACE
AND STABILITY OF OUR REGION WILL BE GREATLY ENHANCED BY
A COHERENT, SWIFT AND EFFECTIVE INTERNATIONAL RESPONSE.

THANK YOU FOR YOUR CONSIDERATION.

SINCERELY,

MINISTER OF JUSTICE
END TEXT.
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